

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF NURSING

IN THE MATTER OF THE SUSPENSION	:	
OR REVOCATION OF THE LICENSE OF	:	Administrative Action
	:	
SHARON ANN McGRATH, R.N.	:	
License No. 26NO11135500	:	FINAL ORDER
	:	OF DISCIPLINE
TO PRACTICE NURSING	:	
IN THE STATE OF NEW JERSEY	:	

This matter was opened to the New Jersey State Board of Nursing (the "Board") upon receipt of information which the Board has reviewed and upon which the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Sharon Ann McGrath ("Respondent") is licensed as a registered professional nurse in the State of New Jersey and has been a licensee at all relevant times.
2. The Board received information alleging that Respondent worked as a registered nurse for Preferred Healthmate, Inc. d/b/a Preferred Health Mate, an in-home care agency, and aided and abetted the uncertified practice of homemaker-home health aides by allowing companions to provide personal care to clients.
3. Respondent worked as a field nurse for Preferred

Health Mate beginning in or about February 2001. As part of her job responsibilities as a registered nurse for Preferred Health Mate, Respondent would perform assessments of clients and develop plans of care for clients. Respondent also served as a training instructor. As the training instructor, Respondent was aware of which aides and companions were available to provide care to clients and the areas of knowledge of those aides and companions. If Respondent determined that an inappropriate person was assigned to provide personal care to the client, she would contact the office of Preferred Health Mate and request a switch.

In or about 2005, Respondent became the Director of Nursing for Preferred Health Mate. At that time, Respondent did not realize the distinction between Certified Homemaker-Home Health Aides (CHHAs) and companions. She believed that an aide was an aide and a nurse was a nurse. Sometime around 2007, Respondent learned the distinction between CHHAs and companions and their ability to provide personal care to clients.

4. On or about May 30, 2011, Respondent completed her biennial license renewal online for the period of June 1, 2011 - May 31, 2013. The online renewal contains a question which asks, "Will you have completed the required continuing education credits by May 31, 2011?" Respondent answered "yes" and certified that answer to be true by submitting the online application.

5. On or about November 7, 2011, the Board requested that Respondent provide certificates of completion for any continuing education courses taken within the last full biennial renewal cycle of 06/01/09 - 05/31/11.

6. On or about November 23, 2011, Respondent replied that she had moved to Florida and that her certificates were in a box in the attic of her home in New Jersey, which was being rented. Respondent, however, did provide certificates indicating that she had completed 9.5 hours of continuing education within the 06/01/09 - 5/31/11 biennial period and 38.7 hours of continuing education from the 06/01/07 - 5/31/09 biennial cycle.

#### CONCLUSIONS OF LAW

As a registered nurse for a home care services agency, Respondent had certain responsibilities relating to the delegation of selected nursing tasks pursuant to N.J.A.C. 13:37-6.2. The Board finds that by failing to distinguish between CHHAs and companions, Respondent failed to evaluate the

education, skill and training of the person to whom she was delegating pursuant to N.J.A.C. 13:37-6.2. Respondent's violation of a Board regulation subjects her to discipline pursuant to N.J.S.A. 45:1-21(h). Additionally, by delegating selected nursing tasks to uncertified companions, or by failing to advise her supervisor that a companion was not the appropriate person to provide personal care, Respondent permitted an uncertified person to perform an act for which a certification is required by the Board, or aided or abetted an uncertified person in performing such an act within the intendment of N.J.S.A.45:1-21(n).

With regards to continuing education, pursuant to N.J.A.C. 13:37-5.3, a nurse shall complete a minimum of 30 hours of continuing education per biennial period. Falsification of any information submitted on the renewal application may result in penalties and/or suspension or revocation of the license. N.J.A.C. 13:37-5.3(a). Additionally, a registered professional nurse or licensed practical nurse shall maintain continuing education compliance documentation for a period of four years after completion of the hours and shall submit such documentation to the Board upon request. N.J.A.C. 13:37-5.3(f).

If a registered nurse completes more than 30 hours of continuing education in any biennial cycle, the nurse may carry over up to 15 hours of continuing education and apply it to the

next cycle. N.J.A.C. 13:37-5.3(c). As such, Respondent may carry over 8.7 hours from the 06/01/07 - 05/31/09 cycle. Coupled with the 9.5 hours completed during the 06/01/09 - 05/31/11 cycle, Respondent provided evidence of completing 18.2 hours of continuing education for the 06/01/09 - 05/31/11 biennial cycle.

Respondent's failure to provide documentation that she completed the full 30 hours of continuing education during the 6/1/09 - 5/31/11 biennial period constitutes a violation of N.J.A.C. 13:37-5.3, which the Board deems professional misconduct within the intendment of N.J.S.A. 45:1-21(e) and also constitutes a violation or failure to comply with a regulation administered by the Board within in the intendment of N.J.S.A. 45:1-21(h). Further, the Board finds that Respondent's submission of her 2011 renewal and her response to the Board's request for proof of completion, wherein she answered affirmatively that she had completed, or would complete, the required continuing education, and subsequent failure to provide documentation of completion, constitutes the use or employment of dishonesty, deception, or misrepresentation within the intendment of N.J.S.A. 45:1-21(b). See also N.J.A.C. 13:37-5.3.

Based on the foregoing findings and conclusions, a Provisional Order of Discipline was entered on February 29, 2012, provisionally suspending respondent's nursing license

until she documented completion of 11.8 hours of continuing education, to be attributed to the 6/1/09-5/31/11 renewal period; provisionally imposing a \$250.00 civil penalty; and provisionally imposing a reprimand for respondent's violations of N.J.S.A. 45:1-21(b), e, (h) and (n). A copy of the order was forwarded to respondent at her address of record by certified and regular mail. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30<sup>th</sup> business day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

Respondent replied to the order via her attorney, and provided documentation of having satisfied the deficiency in continuing education hours for the 2009-2011 renewal cycle, as well as documentation of having completed 30 hours of continuing education to meet the requirements of the current cycle. Accordingly, pursuant to the terms of the Provisional Order, the Board found that suspension was no longer applicable. With respect to the findings of misrepresentation on her renewal application, the Board found that respondent should have been

prompted by the question about continuing education to ascertain with care whether she had complied with regulatory requirements, and accordingly that she knew or should have known that she may not have completed all the required continuing education. By neglecting to perform a check, the Board considers her to have engaged in misrepresentation on her application. The Board further determined that the civil penalty, for failure to comply with N.J.A.C. 13:37-5.3, was also appropriate. Additionally, the Board found that respondent's admission that she followed company policy in lieu of following regulatory requirements in delegating tasks, clearly indicated that a reprimand was warranted upon finalization of the Provisional Order.

ACCORDINGLY, IT IS on this 4<sup>th</sup> day of June, 2012,

ORDERED that:

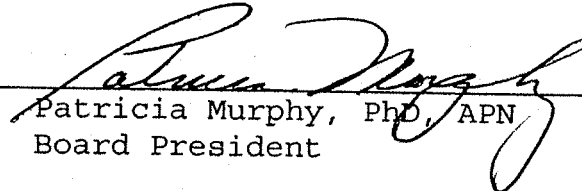
1. A civil penalty in the amount of two hundred dollars ~~provisionally~~ <sup>re</sup> fifty dollars (\$250.00) is imposed upon Respondent for the violation of N.J.A.C. 13:37-5.3. Payment shall be made by certified check or money order payable to the "State of New Jersey," delivered to George Hebert, Executive Director, State of Board of Nursing, P.O. Box 45010, Newark, New Jersey 07101. Payment shall be made no later than fifteen (15) days after the entry of any Final Order of Discipline in this matter. In the event Respondent fails to make a timely payment, a certificate

of debt shall be filed in accordance with N.J.S.A. 45:1-24 and the Board may bring such other proceedings as authorized by law.

2. Respondent is hereby reprimanded for her violations of N.J.S.A. 45:1-21 (b), (e), (h), and (n).

NEW JERSEY STATE BOARD OF NURSING

By:

  
Patricia Murphy, PhD, APN  
Board President